

Chapter 26

CEMETERIES¹

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¹ **Cross references:** Streets, sidewalks and public places, ch. 106.

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ARTICLE I. IN GENERAL

Sec. 26-1. Plantings.

- (a) The landscaping of the entire cemetery is under the direction of the superintendent of municipal services and the cemetery sexton. Any planting may be done only with approval from the public works director and the cemetery sexton.
- (b) No ledges, trees, or brushes may be planted on any lot which will eventually grow past the boundaries of the lot.
- (c) If any tree or shrub, by means of its roots and growth, become dangerous or inconvenient to safe and practical passageway, which shall include vehicles, the superintendent of municipal services or cemetery sexton may enter upon the lot containing the growth and remove what he deems necessary for the benefit of the cemetery.
- (d) The cemetery reserves the right to trim and/or remove any planting deemed necessary.
- (e) Annual flowers may be planted in either urns or beds, but must be located so as not to interfere with the maintenance and operations of the cemetery.
- (f) All plantings, urns and flowerbeds must be approved by the cemetery sexton or the public works director.
- (g) Chairs, settees, receptacles for cut flowers, vases, glass jars, shells, or toys which are deemed inconsistent with the proper keeping of the cemetery are prohibited. The cemetery sexton or superintendent of municipal services may remove from any lot without notice any of the above articles and any artificial or natural flowers which may be objectionable or become unsightly.
- (h) The cemetery assumes no liability for damage to the property of lot owners.
- (i) The cemetery assumes no responsibility for any damage to any live plants. The cemetery staff shall in turn exercise due regard and make all attempts to prevent damage to any plantings, provided they have been placed in accordance with the above rules.

(Ord. No. 2000-11, § 12(21.37), 5-9-2000, Ord. 2014-02)

Sec. 26-2. Animals in cemetery.

Dogs and other pets are prohibited in the cemetery; service animals shall be allowed.

(Ord. No. 2000-11, § 10(21.35), 5-9-2000)

Sec. 26-3. Decorations.

- (a) No more than two decorations on any marker or monument are permitted
- (b) All decorations, including solar lights, must be in a pot, vase, or placed on an approved upright support and placed within six inches of the memorial.
- (c) All summer decorations must be removed by November 11 and no winter decorations may be installed until the Monday before Thanksgiving.
- (d) All winter decorations must be on an approved upright support.
- (e) All decorations must be removed by April 15.
- (f) No decorations, other than fresh cut flowers may be placed on any grave until four days prior to Memorial Day. Any decorations placed prior to this date may be removed without notice.
- (g) No decorations shall be allowed on the panel of a niche or on the columbarium

(Ord. No. 2000-11, § 11(21.36), 5-9-2000, Ord. 2014-08, Ord. 2016-14)

Sec. 26-4. Duties of municipal services committee.

The municipal services committee shall supervise the management and operation of the city cemetery, and may expend for the use, maintenance, protection, development and improvement of the cemetery such sums as are necessary within the budget established by the council and in conformity with all ordinances, resolutions and orders enacted by the council. As far as possible, the services of existing city officials and employees shall be utilized.

(Code 1986, § 21.01; Ord. No. 2000-11, § 1(21.01(2)), 5-9-2000, Ord. 2014-02)

Sec. 26-5. Finances and accounts.

- (a) **Allocation of lot sales receipts, interment fees and perpetual care receipts.** All city cemetery lot, space, and niche sales receipts shall go to perpetual care, as well as all annual assessments received pursuant to section 26-45. All lot, space, and niche sales receipts, interment and inurnment fees and assessments shall go into the cemetery trust fund for the maintenance and operation of the city cemetery to be held by the city clerk-treasurer as trustee and shall be invested as provided in Wis. Stats. § 66.04(2).
- (b) **Budget approval by council.** The council shall approve the budget in such an amount as is deemed necessary to maintain and operate the city cemetery for the next calendar year. The money in the account shall be expended under the direction of the superintendent of municipal services for the development, improvement, upkeep and care of the cemetery. Unless previously authorized by

the council, no debt or deficit shall be incurred which cannot be fully paid by money in the cemetery account.

- (c) **Duties of clerk-treasurer.** The city clerk-treasurer shall serve as trustee to receive and hold money in trust according to the terms of any gift or bequest, the income of which is to be used for the improvement, maintenance, repair, preservation or ornamentation of the cemetery or any lot, niche or structure thereon. Such money shall be invested pursuant to Wis. Stats. § 66.04(2), in the same manner as money in the perpetual care fund, but separately accounted for. No additional compensation shall be paid the clerk-treasurer for such duties, and the bond of the clerk-treasurer shall also cover the performance of all such duties.

(Code 1986, § 21.02, Ord. 2013-11, Ord. 2014-02)

Sec. 26-6. Records.

- (a) The city clerk-treasurer shall keep records relating to city cemeteries consisting of:

- (1) Lot, space, and niche maps.
- (2) An index of lot, space, and niche owners.
- (3) An interment register.
- (4) A burial record.
- (5) A lot, space, or niche ownership record.
- (6) A file of burial permits.

- (b) The lot, space, and niche maps shall identify each lot, space, or niche by number.

(Code 1986, § 21.03, Ord. 2013-11)

Sec. 26-7. Maps and plats.

- (a) *Official maps and plats.*

- (1) The official maps or plats of Maple Hill Cemetery, as amended, filed in the office of the city clerk-treasurer, and sections, lots, divisions, streets, alleys and paths as designated and shown on such maps, are fixed and determined beyond alteration, except by ordinance of the city council, and then only so as not to interfere with private rights, subject nevertheless to the lotting, subdividing and numbering of such portions of such grounds as have not already been lotted and numbered.
- (2) The official map or plat of Maple Hill Cemetery is amended by the laying out of lots along the roadway heretofore running east and west from the tool house across the entire width of such cemetery in accordance with the plat prepared by the city engineer dated September 15, 1964.
- (3) A copy of such map or replat shall be recorded as provided by law.

- (b) *Platting and recording of new blocks.* Before any new block of the cemetery is opened for the sale of lots, the council shall cause it to be platted and recorded in the office of the register of deeds. Six copies of the plat shall be deposited with the superintendent of municipal services and

six copies with the city clerk-treasurer. The plat shall be so designed as to provide direct access to each lot from either a road or walk.

(Code 1986, § 21.04, Ord. 2014-02)

Sec. 26-8. Entry.

No person shall enter or leave a city cemetery except through the gates. No persons other than cemetery employees or police officers shall be within the cemetery except during the daylight hours.

(Code 1986, § 21.30)

Sec. 26-9. Firearms.

No person shall carry any firearms in a city cemetery, except for any law enforcement officer, or except in the case of military funerals and on Memorial or Veterans Day, without the written permission of the superintendent of municipal services.

(Code 1986, § 21.31, Ord. 2014-02)

Sec. 26-10. Vehicles.²

(a) No vehicle shall be driven in a city cemetery except on roads designated for that purpose. No vehicle shall be driven in a reckless manner.

(b) Snowmobiles or all terrain vehicles are prohibited in the cemetery.

(Code 1986, § 21.32; Ord. No. 2000-11, § 8(21.32), 5-9-2000)

Sec. 26-11. Disturbing property.

No person, except the owner of the lot or a cemetery employee, shall cut, remove, injure or carry away any flowers, trees, shrubs, plants or vines from any lot or property in a city cemetery, or deface, injure or mark upon any markers, headstones, monuments, fences or structures, nor shall any person other than the owner injure, carry away or destroy any vases, flowerpots, urns or other objects which have been placed on any lot.

(Code 1986, § 21.33)

Sec. 26-12. Alcohol beverages or refreshments.³

No person shall possess or consume any intoxicating liquor or fermented malt beverage or refreshments in the cemetery.

(Code 1986, § 21.34; Ord. No. 2000-11, § 9(21.34), 5-9-2000)

² **Cross references:** Traffic and vehicles, ch. 122.

³ **Cross references:** Alcohol beverages, ch. 6.

Sec. 26-13. Maintenance of order.

The superintendent of municipal services and/or cemetery sexton shall maintain order and shall eject any person whose conduct is objectionable or who violates this chapter.

(Ord. No. 2000-11, § 13(21.38), 5-9-2000, Ord. 2014-02)

Sec. 26-14. Appeals.

Appeals of any decision by the cemetery sexton or the superintendent of municipal services may be presented to the municipal services committee.

(Ord. No. 2000-11, § 14(21.39), 5-9-2000, Ord. 2014-02)

Sec. 26-15. Penalty.

Any person who shall violate any provisions of this chapter shall be subject to a penalty as provided in section 1-11.

(Ord. No. 2000-11, § 15(21.40), 5-9-2000)

Secs. 26-16--26-40. Reserved.

ARTICLE II. SALES AND FEES

Sec. 26-41. Issuance of deeds and agreements.

The sale of lots, spaces, and niches in the city cemetery shall be under the control of the clerk-treasurer, subject to the rules, regulations and general supervision of the council. Any applicant shall apply to the clerk-treasurer and, upon payment for the lot, space, or niche selected, the clerk-treasurer shall issue a deed to the lot or space or agreement for the niche in the form prescribed by the city attorney. The deed or agreement shall be signed by the clerk-treasurer and mayor, sealed with the corporate seal and acknowledged so as to entitle it to be recorded. The purchaser may record a deed with the register of deeds.

(Code 1986, § 21.06, Ord. 2013-11)

Sec. 26-42. Transfer of internment and inurnment rights.

- (a) The transfer, in accordance with the applicable state statutes, of lots or spaces in a city cemetery previously sold may be registered with the clerk-treasurer by presentation of the original deed, on the back of which is written "I hereby transfer to (name of owner) (spaces(s) or portion of the lot)," and the endorsement of the original lot or space owner, or by presenting a court order evidencing transfer. This shall be acknowledged and witnessed if it is desired to record the transfer with the register of deeds.
- (b) The transfer, in accordance with the applicable state statutes, of niches in a city cemetery previously sold may be registered with the clerk-treasurer by presentation of the original niche reservation agreement, on the back of which is written "I hereby transfer to (name of owner) (the niche)," and the endorsement of the original niche

owner, or by presenting a court order evidencing transfer. This shall be acknowledged and witnessed if it is desired to record the transfer with the register of deeds.

(Code 1986, § 21.07, Ord. 2013-11)

Sec. 26-43. Establishment of lot, space, and niche prices and fees.

On or before August 1 annually, the superintendent of municipal services shall present to the municipal services committee his recommendations for revision in the schedule of prices for all lots, spaces, and niches sold in any cemetery under the city's jurisdiction and for all work done for private parties by the superintendent of municipal services or his assistants. The municipal services committee shall review such recommendations and incorporate any approved changes in the budget submitted to the city council under section 26-5(b).

(Code 1986, § 21.05, Ord. 2013-11, Ord. 2014-02)

Sec. 26-44. Amount of fees.

(a) Fees for interment and inurnment in a city cemetery shall be as established by the council from time to time by resolution and as set forth in appendix A.

(b) Fees for cemetery lots, spaces, and niches and perpetual care charges shall be as established by the council from time to time by resolution and as set forth in appendix A.

(Code 1986, § 21.08; Ord. No. 1998-11, § 1, 8-11-1998; Ord. No. 200-11, § 2(21.08), 5-9-2000, Ord. 2013-11)

Sec. 26-45. Annual assessments for care of graves.

The municipal services committee may make annual assessments for the maintenance and care of grave spaces in city cemeteries for which perpetual care is not provided, such annual assessment to be subject to the limitations of Wis. Stats. § 157.11. When uniform care of a lot has been given for two consecutive years or more for which assessments are unpaid under Wis. Stats. § 157.11(7), the right to interment is forfeited until delinquent assessments are paid. When uniform care has been given for five consecutive years or more and the assessments are unpaid upon like notice, title to all unoccupied parts of the lot shall pass to the city and may be sold, the proceeds to be a fund for perpetual care of the occupied portion.

(Code 1986, § 21.13, Ord. 2014-02)

Secs. 26-46--26-60. Reserved.

ARTICLE III. PERPETUAL CARE

Sec. 26-61. Required.

(a) **Expense to be included in lot price.** All lots, spaces, and niches hereafter sold in the city cemetery shall be provided with perpetual care services, the expense to be included in the price of the lot, space, or niche.

(b) **Lots and spaces previously sold without perpetual care.** Owners of lots or spaces previously sold without perpetual care must secure the benefits of perpetual care by

paying to the city clerk-treasurer a sum pursuant to the schedule which shall be set by the council as a reasonable amount for the care of such lots or spaces in perpetuity. All amounts so received shall be deposited in the city general fund.

(c) Burial prohibited without perpetual care. No burial shall be permitted in any grave space until the person requesting the burial, or the person interested in the lot of which the grave space is a part, provides perpetual care for the entire lot of which the grave space is a part.

(Code 1986, § 21.10, Ord. 2013-11)

Sec. 26-62. Establishment of charges.

On or before August 1 each year, the superintendent of municipal services shall submit to the municipal services committee a schedule or amendments to the schedule of perpetual care charges for all lots, grave spaces, and niches in any cemetery under the city's jurisdiction. The municipal services committee shall review such scheduled amendments and include its recommendations in the budget submitted to the city council under section 26-5(b).

(Code 1986, § 21.11; Ord. No. 1998-11, § 2, 8-11-1998, Ord. 2013-11, Ord. 2014-02)

Secs. 26-63--26-80. Reserved.

ARTICLE IV. INTERMENTS AND DISINTERMENTS

Sec. 26-81. Payment of charges required prior to interment or inurnment.

No interment or inurnment shall be allowed in any city cemetery lot, space, or niche which has not been fully paid for or where annual assessments for care of the lot are delinquent.

(Code 1986, § 21.15, Ord. 2013-11)

Sec. 26-82. Burial or cremation permit.

No interment or inurnment shall be permitted or body or cremated remains received in a city cemetery without a burial permit, cremation permit, or removal certificate issued by the register of deeds, city health officer or clerk-treasurer of the place where the death occurred. Such permit or certificate shall be retained by the clerk-treasurer as part of his record. All interments, disinterments and other matters relating to the disposal of bodies shall be pursuant to the state statutes and the orders of the state department of health and family services.

(Code 1986, § 21.16, Ord. 2013-11)

Sec. 26-83. Notice and supervision of interment or inurnment.

- (a) Notice of interment or inurnment shall be given to the city clerk/treasurer by 3:00 p.m. on a regular work day at least 30 hours in advance of burial. The superintendent of municipal services or cemetery sexton must be present at all

interments and inurnments and shall have full charge of the opening, closing and seeding of all graves and opening and closing of all niches.

- (b) When the instructions for opening a grave are not definite, the cemetery sexton or superintendent of municipal services will use his best judgment in deciding when and if a grave is to be opened.

(Code 1986, § 21.17; Ord. No. 2000-11, § 3(21.17), 5-9-2000, Ord. 2013-11, Ord. 2014-02)

Sec. 26-84. Depth of graves.

The minimum depth of graves in a city cemetery shall be five feet.

(Code 1986, § 21.18)

Sec. 26-85. Number of interments or inurnments.

(a) Not more than one interment in one grave shall be permitted in a city cemetery, except in the case of infants and/or urns of ashes, where two interments per grave will be permitted, except that for good cause the municipal services committee may grant an exception, but in this case the committee must report such action to the council at its next meeting.

(b) Niches shall be used only for the inurnment of cremated human remains in an urn. The ashes of only one person shall be permitted in an urn. One urn shall be permitted to be inurned in a single niche; two urns shall be permitted to be inurned in a double niche.

(Code 1986, § 21.19, Ord. 2013-11, Ord. 2014-02)

Sec. 26-86. Approved outer burial container required.

No interment shall be permitted or body received unless it is contained in a cement, metal or other permanent type of container or vault approved by the superintendent of municipal services or cemetery sexton.

(Code 1986, § 21.20; Ord. No. 2000-11, § 4(21.20), 5-9-2000, Ord. 2014-02)

Secs. 26-87--26-110. Reserved.

ARTICLE V. IMPROVEMENT OF LOTS

Sec. 26-111. Gradient of lots.

No person shall change the grade of any lot nor interfere in any way with the general plan of the landscaping in the cemetery.

(Ord. No. 2000-11, § 5(21.25), 5-9-2000)

Sec. 26-112. Superintendent of municipal services; powers.

The superintendent of municipal services or cemetery sexton may enter upon any lot or space and remove any shrub or tree which is deemed detrimental to the cemetery or

adjoining lots or spaces or is unsightly or inconvenient to the public. He may also enter upon any lot or space and make any improvements deemed for the advantage of the grounds.

(Ord. No. 2000-11, § 6(21.26), 5-9-2000, Ord. 2013-11, Ord. 2014-02)

Sec. 26-113. Memorials.

- (a) Only one marker shall be allowed per grave, set in accordance with the rules of the cemetery. A double marker covering two spaces constitutes two markers.
- (b) Only one monument shall be allowed per lot, set in accordance with the rules of the cemetery.
- (c) Every memorial of any type will require an adequate concrete foundation.
- (d) All monuments and markers shall be of bronze or granite and no vertical joints therein shall be permitted. No monument or marker constrained of any other materials may be erected in the cemetery.
- (e) All foundations for monuments and markers and other structure must be of sufficient depth and stability to support the proposed structure. The foundations shall be flush with the ground matching the grade of the gravesite.
- (f) No monument or marker may be erected until the foundation therefore has been approved by the cemetery sexton or the superintendent of municipal services and a written permit granting such approval has been issued by the city clerk/treasurer. If a monument or marker is placed before the city clerk/treasurer issues a foundation approval permit for the monument or marker, the city may, at its sole discretion, remove the monument or marker at the expense of the owner of the cemetery lot on which it was placed.
- (g) Foundation work in the cemetery shall be done by approved monument salespersons under the supervision of the cemetery sexton or the superintendent of municipal services.
- (h) Monuments or markers shall be of a size no larger than 16 inches high by 24 inches long and 12 inches wide for a single marker and 16 inches high by 36 inches long and 12 inches wide for a double marker.
- (i) No monuments, markers, or burials shall be placed in the walkways.
- (j) The owner of a cemetery lot or space or a monument vendor may apply to the city clerk for a written permit granting approval of a foundation for a proposed monument or marker. The city council shall by resolution establish and may from time to time adjust the fee for a foundation approval permit, the amount of which is set forth in appendix A. When application for a foundation approval permit is made, the applicant shall pay the fee to the city clerk. If application is made after the

monument or marker is placed, the applicant shall pay the city clerk twice the amount of the fee charged for timely applications.

(k) The exterior panel of a niche shall be able to accommodate:

- i. an engraving of the name, date of birth, and date of death of the inurned in the font provided on Addendum A.
- ii. an optional engraving of an official emblem from the list on Addendum A, or any officially recognized symbol.
- iii. An optional photo of the inurned no larger than 3" oval or a military service plaque no larger than 3" in diameter

(l) No attached appliques are allowed on the exterior panel of a niche with the exception of (k) iii above.

(Ord. No. 2000-11, § 7(21.27), 5-9-2000, Ord. 2004-20, Ord. 2013-11, Ord. 2014-02, Ord. 2014-08, Ord. 2016-14)

Sec. 26-114. Fences or other enclosures.

No fences or enclosures around lots shall be permitted in a city cemetery.

(Code 1986, § 21.28)

Sec. 26-115. Level of graves.

Graves in a city cemetery shall not be raised above the level of the lot.

(Code 1986, § 21.29)

Sec. 26-116. Definitions.

The following terms have the meanings set forth:

- (a) GRAVE shall mean a piece of land that is used or intended to be used for an underground burial of human remains. Grave is synonymous with space and grave space.
- (b) SPACE shall mean a piece of land that is used or intended to be used for an underground burial of human remains. Space is synonymous with grave and grave space.
- (c) GRAVE SPACE shall mean a piece of land that is used or intended to be used for an underground burial of human remains. Grave space is synonymous with grave and space.
- (d) LOT shall mean eight contiguous graves or spaces.
- (e) NICHE shall mean an enclosure that is used or intended to be used for the aboveground inurnment of human remains.
- (f) MEMORIAL shall mean either a marker or a monument.
- (g) MONUMENT shall mean a gravestone placed in the ground to designate a lot.
- (h) MARKER shall mean a gravestone placed in the ground to designate a grave or space.

(Ord. 2013-11)